



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	SB0354	<b>Title:</b>	Create infrastructure funding program
<b>Primary Sponsor:</b>	Ripley, Rick	<b>Status:</b>	As Introduced

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget        | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	\$327,830	\$637,830	\$637,830
State Special Revenue	\$0	\$13,460,000	\$26,690,000	\$26,910,000
Other - Trust	\$0	\$0	\$0	\$0
<b>Revenue:</b>				
General Fund	\$0	(\$310,000)	(\$1,040,000)	(\$1,090,000)
State Special Revenue	\$0	\$13,460,000	\$26,690,000	\$26,910,000
Other - Trust	\$0	(\$13,840,000)	(\$27,430,000)	(\$28,000,000)
<b>Net Impact-General Fund Balance:</b>	<u>\$0</u>	<u>(\$637,830)</u>	<u>(\$1,677,830)</u>	<u>(\$1,727,830)</u>

**Description of fiscal impact:** SB 354 provides for the creation of a build Montana program, contingent on passage of this bill, and passage of SB 353 by the 2015 legislature and passed on the November, 2016 ballot. The build Montana program would provide state funding for local government infrastructure programs through a diversion of coal severance tax trust and sub-trust revenue to outside the coal tax trust. This bill would provide for infrastructure funding beginning in FY 2017, and would cause a permanent reduction to coal trust interest earnings revenue deposited in the general fund.

## FISCAL ANALYSIS

### Assumptions:

#### **Department of Revenue**

1. SB 354 is contingent on the passage of SB 353, and the passage and approval by the electorate of SB 353 in November, 2016. The fiscal impact shown above, as well as the following list of assumptions, is built on the expectation that SB 353 will be approved by both the 2015 legislature and the 2016 electorate.
2. This bill creates a build Montana account and directs the state treasurer to monthly transfer the amount needed to fund the chosen infrastructure projects through the build Montana program into this account from the build Montana fund.
3. The state treasurer must notify the budget director when the balance in the coal trust fund (excluding the coal severance tax bond fund) exceeds \$1 billion. Then, 90% of the amount in the coal severance tax bond fund in excess of the amount required to meet all principal and interest payments on bonds payable from the fund during the next 12 months must be transferred on a quarterly basis to the build Montana fund.
4. The balance of the coal severance tax trust fund is determined by taking the balance at the end of FY 2014, using HJ 2 assumptions to determine coal severance trust fund revenue, and subtracting an estimate of the amount of coal bond fund interest and income that would be retained in the coal bond fund account. Using these estimates, the coal trust funds balance would reach \$1 billion in FY 2016.
5. The amount of coal bond fund interest and income is determined using the rate of increase of this amount from FY 2013 to FY 2015 and projecting the amount forward through FY 2019 (see table below). The Department of Commerce provided the amount of coal bond fund interest and income retained for FY 2013 through FY 2015.

Fiscal Year	2013 actual	2014 actual	2015 actual	2016 est.	2017 est.	2018 est.	2019 est.
Coal Bond Fund interest and income	\$1,484,791	\$1,479,627	\$1,905,057	\$2,174,623	\$2,482,332	\$2,833,582	\$3,234,533
Average annual rate of change, 2013 to 2015			14.15%				

6. This bill removes the provision to transfer 50% of the amount in the coal severance tax bond fund in excess of that required to meet bond payments to the treasure state endowment fund through FY 2016. However, this bill would not be in effect until halfway through FY 2017 when this provision has already expired.
7. This bill removes the provision to transfer 25% of the amount in the coal severance tax bond fund in excess of that required to meet bond payments to the treasure state endowment regional water system fund through FY 2016. However, this bill would not be in effect until halfway through FY 2017 when this provision has already expired and the 25% transfer has already ceased.
8. This bill removes the provision to transfer 25% of the amount in the coal severance tax bond fund in excess of that required to meet bond payments to the big sky economic development fund from July 1, 2005 to June 30, 2025, thus the grants awarded from the spendable interest on the Big Sky Economic Development trust would be capped to the interest earned on the fixed trust balance as of the end of FY 2016.
9. Under current law, any amount in the coal severance tax bond fund in excess of the amount needed to meet all bond payments and not otherwise allocated should be deposited in the coal severance tax permanent fund. The general fund receives interest earned by the coal severance tax permanent fund.
10. Coal trust short term interest rates from OBPP's extrapolations of HJ 2 for FY 2018 and FY 2019 were used to determine general fund revenue from coal severance tax permanent fund interest.

11. The following table shows the estimated change in revenue by account for FY 2017 due to the passage of this bill.

<b>FY 2017 Distributions</b>			
	<b>Current Law</b>	<b>Proposed Law</b>	<b>Difference</b>
Coal Trust Fund Balance	1,045.27	\$1,039.12	(\$6.15)
Total Coal Severance Tax	\$66.45	\$66.45	\$0.00
Coal Trust Fund Revenue	\$33.22	\$33.22	\$0.00
Bond Fund Debt Service	\$2.48	\$2.48	\$0.00
Distributable Amount	\$30.74	\$30.74	\$0.00
Big Sky Economic Development Fund	\$7.69	\$0.00	(\$7.69)
Build Montana Fund	\$0.00	\$13.83	\$13.83
Coal Severance Tax Permanent Fund	\$23.06	\$16.91	(\$6.15)

12. The following table shows the estimated change in revenue by account for FY 2018 due to the passage of this bill

<b>FY 2018 Distributions</b>			
	<b>Current Law</b>	<b>Proposed Law</b>	<b>Difference</b>
Coal Trust Fund Balance	\$1,073.90	\$1,042.17	(\$31.73)
Total Coal Severance Tax	\$66.61	\$66.61	\$0.00
Coal Trust Fund Revenue	\$33.31	\$33.31	\$0.00
Bond Fund Debt Service	\$2.83	\$2.83	\$0.00
Distributable Amount	\$30.47	\$30.47	\$0.00
Big Sky Economic Development Fund	\$7.62	\$0.00	(\$7.62)
Build Montana Fund	\$0.00	\$27.43	\$27.43
Coal Severance Tax Permanent Fund	\$22.86	\$3.05	(\$19.81)

13. The following table shows the estimated change in revenue by account for FY 2019 due to the passage of this bill

<b>FY 2019 Distributions</b>			
	<b>Current Law</b>	<b>Proposed Law</b>	<b>Difference</b>
Coal Trust Fund Balance	\$1,102.47	\$1,045.28	(\$57.19)
Total Coal Severance Tax	\$68.68	\$68.68	\$0.00
Coal Trust Fund Revenue	\$34.34	\$34.34	\$0.00
Bond Fund Debt Service	\$3.23	\$3.23	\$0.00
Distributable Amount	\$31.11	\$31.11	\$0.00
Big Sky Economic Development Fund	\$7.78	\$0.00	(\$7.78)
Build Montana Fund	\$0.00	\$27.99	\$27.99
Coal Severance Tax Permanent Fund	\$23.33	\$3.11	(\$20.22)

14. The following table shows the by-fund type state special and general fund revenue impacts of SB 354.

<b>Revenue Implications of SB 354</b>			
	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Present Law</b>			
General Fund	22.49	\$30.44	\$31.15
State Special Revenue	3.48	\$3.70	\$3.95
Trust Fund Revenue	30.74	\$30.48	\$31.11
<b>Proposed Law</b>			
General Fund	\$22.18	\$29.40	\$30.06
State Special Revenue	\$16.95	\$30.40	\$30.86
Trust Fund Revenue	\$16.91	\$3.05	\$3.11
<b>Difference</b>			
General Fund	(\$0.31)	(\$1.04)	(\$1.09)
State Special Revenue	\$13.47	\$26.69	\$26.91
Trust Fund Revenue	(\$13.83)	(\$27.43)	(\$28.00)

15. The following table shows the impact on the distribution to the big sky economic development fund as well as on the spendable interest earnings from the balance in the fund.

<b>Impacts on Big Sky Economic Development Fund</b>			
	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
<b>Present Law</b>			
Distribution	\$7.69	\$7.62	\$7.78
Interest Earnings	\$3.48	\$3.70	\$3.95
<b>Proposed Law</b>			
Distribution	\$0.00	\$0.00	\$0.00
Interest Earnings	\$3.11	\$2.97	\$2.86
<b>Difference</b>			
Distribution	(\$7.69)	(\$7.62)	(\$7.78)
Interest Earnings	(\$0.37)	(\$0.74)	(\$1.09)

16. This fiscal note assumes this bill would be effective for coal severance tax revenue received the quarter beginning January 1, 2017, the second half of FY 2017.

#### **Public Employees' Retirement System (PERS)**

17. The following table shows the impact of this legislation on the statutory appropriation to PERS in accordance with 15-35-108, MCA. Continued low interest rates, below what is currently included in HJ 2, would impact the retirement system and its financial standing as appropriations would be reduced to the plan.

Impacts to Pension System			
	FY 2017	FY 2018	FY 2019
<b>Present Law</b>			
General Fund Coal Trust Interest Earnings	\$22.49	\$30.44	\$31.15
15-35-108, MCA, Statutory Appropriations	\$3.07	\$3.07	\$3.07
PERS Defined Benefit Plan*	\$19.43	\$21.00	\$21.00
<b>Proposed Law</b>			
General Fund Coal Trust Interest Earnings	\$22.18	\$29.40	\$30.06
15-35-108, MCA, Statutory Appropriations	\$3.07	\$3.07	\$3.07
PERS Defined Benefit Plan*	\$19.12	\$21.00	\$21.00
Net Reduction to General Fund Revenue	\$0.31	\$1.04	\$1.09
Net Reduction to PERS Defined Benefit Plan	\$0.31	\$0.00	\$0.00
* 15-35-108(9)(b)(v) HB 454 PERS Defined Benefit Plan SA is capped at \$21 million through FY 2019			

### Department of Commerce (DOC)

18. Section 2 of the bill provides for definitions to be used in the administration of the build Montana program. The definition of “infrastructure projects” in the bill is the same as “infrastructure projects” in Section 90-6-701(3)(a), MCA (the Treasure State Endowment Program) with the addition of local government roads and streets, critical school facility infrastructure, emergency school facility needs, and state reimbursement for school facilities as provided in 20-9-371. The definition of “local government” in the bill is the same as “local government” in Section 90-6-701(3)(b), MCA (the Treasure State Endowment Program) with the addition of school districts.
19. Under existing law (Section 17-5-703, MCA), effective July 1, 2016, all transfers from the coal severance tax bond fund to the Treasure State Endowment Fund and the Treasure State Endowment Regional Water Fund will end, and all such funds will flow into the coal severance tax permanent fund and on to the state general fund. Effective July 1, 2025, all transfers from the coal severance tax bond fund to the Big Sky Economic Development Fund will end, and all such funds will flow into the coal severance tax permanent fund and on to the state general fund. If SB 353 is passed by the voters in November, 2016, Section 6 would modify these allocations to provide that once the coal severance tax trust exceeds \$1 billion, excluding the coal severance tax bond fund, 90% of the amount in the bond fund after principal and interest payments are met would be redirected to the new build Montana fund.
20. Section 4 would establish an eight-member joint interim legislative subcommittee to submit a proposal for infrastructure projects for funding to the legislature each session. Section 4 requires the subcommittee to meet by June 15 of each even-numbered year to receive and review lists of projects and to issue its prioritized list of recommended projects and funding by September 1 of each even-numbered year. Section 4 places a cap on funding for critical school facility infrastructure, emergency school facility needs, and state reimbursement for school facilities as provided in 20-9-371 to between 10-15% of the funding for all projects in the list.
21. Section 5 provides that on or before May 1 of each even-numbered year, the Department of Commerce and the Department of Natural Resources and Conservation shall submit a list to the subcommittee of infrastructure projects recommended for funding, prioritized and ranked in accordance with “current local infrastructure criteria.” Section 5 also provides that on or before May 1 of each even-numbered year, local governments, organizations representing local governments, or governing bodies of school districts may submit a list of prioritized infrastructure projects for funding directly to the subcommittee.

22. This bill does not allow for administrative costs payable by the balance in the build Montana fund. As a result, administrative costs commensurate with Treasure State Endowment Program are included in this analysis and are assumed to be funded with general fund.

**Fiscal Impact:****Expenditures:**

Operating	\$0	\$637,830	\$637,830	\$637,830
Grants (BMF)	\$0	\$13,830,000	\$27,430,000	\$28,000,000
Grants (BSED)	\$0	(\$370,000)	(\$740,000)	(\$1,090,000)
SA to PERS	\$0	(\$310,000)	\$0	\$0
<b>TOTAL Expenditures</b>	<b>\$0</b>	<b>\$13,787,830</b>	<b>\$27,327,830</b>	<b>\$27,547,830</b>

**Funding of Expenditures:**

General Fund (01)	\$0	\$327,830	\$637,830	\$637,830
State Special Revenue (BMF)	\$0	\$13,830,000	\$27,430,000	\$28,000,000
State Special Revenue (BSED)	\$0	(\$370,000)	(\$740,000)	(\$1,090,000)
<b>TOTAL Funding of Exp.</b>	<b>\$0</b>	<b>\$13,787,830</b>	<b>\$27,327,830</b>	<b>\$27,547,830</b>

**Revenues:**

General Fund (01)	\$0	(\$310,000)	(\$1,040,000)	(\$1,090,000)
State Special Revenue (BSED)	\$0	(\$370,000)	(\$740,000)	(\$1,090,000)
State Special Revenue (BMF)	\$0	\$13,830,000	\$27,430,000	\$28,000,000
Trust Fund Revenue (BSED)	\$0	(\$7,690,000)	(\$7,620,000)	(\$7,780,000)
Trust Fund Revenue (Ann. Perm F)	\$0	(\$6,150,000)	(\$19,810,000)	(\$20,220,000)
Trust Fund Revenue (Cumulative)		(\$6,150,000)	(\$31,730,000)	(\$57,190,000)
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>(\$690,000)</b>	<b>(\$1,780,000)</b>	<b>(\$2,180,000)</b>

**Net Impact to Fund Balance (Revenue minus Funding of Expenditures):**

General Fund (01)	\$0	(\$637,830)	(\$1,677,830)	(\$1,727,830)
State Special Revenue (02)	\$0	\$0	\$0	\$0
Trust Fund Revenue (09)	\$0	(\$13,840,000)	(\$27,430,000)	(\$28,000,000)

**Effect on County or Other Local Revenues or Expenditures:**

1. As per Section 5, by May 1 of even-numbered years, DNRC shall submit to the interim committee a list of applications which were submitted to DNRC instead of directly to the committee. In order to comply with SB 354, DNRC would have to change its application deadline from May 1 to January 1. Applicants would have to plan two years in advance for potential funding, as opposed to the current 1.5 years. This could result in planning difficulties for the applicants.

**Long-Term Impacts:**

1. This bill has no expiration date, so the loss to general fund revenue would continue to increase indefinitely at an exponential rate as interest rates increase.
2. The loss to the big sky economic development trust would continue through FY 2025 when it is currently expected to expire.
3. Low interest rates now or in the future would impact the PERS retirement system and its financial standing as appropriations would be reduced to the plan.

**Technical Notes:**

1. The bill provides that both the Department of Commerce and the Department of Natural Resources and Conservation shall prioritize and shall submit a list to the subcommittee of infrastructure projects recommended for funding, prioritized and ranked in accordance with “current local infrastructure criteria.” As the funding sources in the bill correlate to the Treasure State Endowment and Big Sky Economic Development Programs only (both administered by the Department of Commerce), and the definitions of eligible projects and eligible applicants in the bill correlate to the Treasure State Endowment and Quality Schools Programs only (both administered by the Department of Commerce), it is unclear what role the Department of Natural Resources and Conservation would play in prioritizing and ranking these infrastructure projects.
2. Section 5 provides that on or before May 1 of each even-numbered year, local governments, organizations representing local governments, or governing bodies of school districts may submit a list of prioritized infrastructure projects for funding directly to the interim subcommittee. It is unclear what role the Department of Commerce would play in the prioritization and recommendation of infrastructure projects for funding, when eligible applicants could apply directly to the subcommittee for consideration for funding by the legislature.
3. Section 4(5) requires the subcommittee to submit the list to the legislature for approval. It is unclear if this list would be included as part of the legislative branch budget, or if it would be part of a committee bill, or otherwise.
4. Section 4(7) requires the personnel, data, and facilities of the legislative services division and other appropriation legislative entities must be made available to the subcommittee. This fiscal note assumes these costs would be absorbed within the existing legislative budget and/or feed bill. If this is not the intent of the legislation, additional costs would need to be reflected in the fiscal note.
5. Section 4(5) requires the subcommittee to submit the list to the legislature for approval. Based on timing, the subcommittee would not have an official revenue estimate from which to budget the proposed projects until the November directly preceding a legislative session. As a result, the subcommittee would have no way of knowing if their recommendations could be funded.

\_\_\_\_\_  
*Sponsor's Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director's Initials*\_\_\_\_\_  
*Date*

**Dedication of Revenue 2017 Biennium**GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING**17-1-507-509, MCA.**

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

Yes, the proposed program addresses infrastructure needs statewide.

- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?**

A state special revenue account allows all expenditures and revenues related to the programs activities to be contained in a single accounting entity.

- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)**

Yes.

- d) **Does the need for this state special revenue provision still exist?   X   Yes      No (Explain)**

Yes. A state special revenue account allows all expenditures and revenues related to the programs activities to be contained in a single account.

- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**

No. The funds in question would be reviewed by the legislature and would be audited by the Office of the Legislative Auditor with any findings being presented to the Legislative Audit Committee.

- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**

Unknown

- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)**

Unknown